

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

4533 THIRD AVE LLC,

Plaintiff,

vs.

UNITED STATES LIABILITY INSURANCE
COMPANY,

:
: CIVIL ACTION
:
: No. 1:25-cv-3823
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:
: **NOTICE OF REMOVAL**
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TO: Clerk of the Court
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. § 1441 and 28 U.S.C. § 1446, Defendant United States Liability Insurance Company (“USLI”) hereby removes this action from the Supreme Court of the State of New York, County of Bronx, where this action is currently pending, and respectfully states as follows:

1. On January 23, 2025, Plaintiff 4533 Third Ave LLC (“Plaintiff”) commenced this action by filing a Summons and Complaint against USLI in the Supreme Court of the State of New York, County of Bronx, under Index No. 801651/2025E. Attached hereto as Exhibit 1 is a true copy of a letter dated February 3, 2025 from the New York Department of Financial Services (“DFS”) to USLI, enclosing a copy of the Summons and Complaint.

2. As set forth in the February 3, 2025 letter, the DFS acknowledged that it received service of the Summons and Complaint on January 31, 2025. *See* Ex. 1

3. As set forth in the February 3, 2025 letter, the DFS forwarded the Summons and Complaint to USLI. However, as indicated by the date stamp on the envelope enclosing the DFS

letter and the Summons and Complaint, the mailing was not received by USLI until April 15, 2025.
See Ex. 1 (last page).

4. Pursuant to 28 U.S.C. § 1332, this Court has original jurisdiction of this action, which is removable to this Court pursuant to 28 U.S.C. § 1441 and 28 U.S.C. § 1446.

5. Pursuant to 28 U.S.C. § 1446, this Notice of Removal is being filed within the 30-day time limit for removal.

6. Upon information and belief, Plaintiff “is a domestic limited liability company, organized and existing under and by virtue of the laws of the State of New York, with its principal placed [sic] of business located in the State of New York.” *See* Ex. 1, Complaint, ¶ 1.

7. Upon information and belief, no member of Plaintiff is a citizen of the State of Nebraska or the Commonwealth of Pennsylvania.

8. USLI is a corporation organized and existing under the laws of the State of Nebraska with its principal place of business in Wayne, Pennsylvania.

9. Diversity jurisdiction existed at the commencement of this case and continues to exist on the date of filing of this Notice.

10. Based on the allegations of the Complaint, the amount in controversy is greater than \$75,000, exclusive of interest and costs. Plaintiffs alleges that its damages are “at least \$1,000,000.” *See* Ex. 1, Complaint, ¶ 17.

11. Pursuant to 28 U.S.C. § 1391(b), venue is proper in this District because this action is currently pending in the Supreme Court of the State of New York, County of Bronx, a substantial part of the events or omissions giving rise to the claim occurred in this District, and the property that is the subject of this action is situated in this District.

12. Pursuant to 28 U.S.C. § 1446(d), USLI will file a Notice of Filing of Notice of Removal with the Supreme Court of the State of New York, County of Bronx.

Dated: May 7, 2025
New York, New York

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United States Liability Insurance Company

By: /s/Vincent J. Proto
VINCENT J. PROTO

CERTIFICATE OF SERVICE

I certify that on this 7th day of May, 2025, I caused a copy of the Notice of Removal and accompanying exhibit to be served on plaintiff's counsel, Johnathan C. Lerner, Esq., Lerner, Arnold & Winston, LLP, 286 Fifth Avenue, 12th Floor, New York, NY 10001, by electronic mail.

/s/Vincent J. Proto
VINCENT J. PROTO